

### **REMARKS/ARGUMENTS**

Reconsideration of this application is requested. Claims 23-32 will be pending in the application subsequent to entry of this Amendment.

In preparing this response it was noted that the Amendment of September 6, 2007 stated that claim 9 was being amended to incorporate the features of claim 1; *see* the remarks, third paragraph. This turns out to be incorrect. In fact, claim 9 incorporated the process of claim 8 which does not lead to hydrolyzed lupin proteins but non-hydrolyzed ones.

In order to rectify this and direct the claims to the subject matter of the intended modified lupin proteins of original claims 9-18, the elected invention, claim 22 has been deleted and replaced with new claim 32 which features the process of original claim 1 and results in the desired hydrolyzed lupin proteins. New claim 32 also includes the additional steps of adding the indicated amount of protease and conducting the incubation for a time sufficient until the degree of hydrolysis falls within the specified range.

The claims as above revised are consistent with the election of modified lupin proteins and compositions, original claims 9-18 falling within Group II; *see* the Official Action and requirement for restriction of March 23, 2007.

The above claim amendments resolve the lack of clarity rejection directed to original claim 22, thus this point is now moot.

Previous claims 22-31 are rejected in the current Official Action as being unpatentable over Wasche et al, Msika et al, Perrier et al and Buttmer et al, all taken in combination.

These cited documents are no longer pertinent to the claims under review as the properties of hydrolyzed and not-hydrolyzed lupin proteins are very different. The hydrolyzed ones are used as emulsifiers for a formulation with fat-soluble active ingredients. The non-hydrolyzed proteins are used to selectively adjusting the functional properties of individual products, for example with regard to their solubility, emulsifiability, thermostability, foam formation and gel formation; *see* column 6, lines 21 to 25, Wasche et al, the primary reference herein.

For the above reasons, it is respectfully submitted that claims 23-32 define patentable subject matter. Reconsideration and allowance are solicited. Should the examiner require further information, please contact the undersigned.

FUNDA et al  
Appl. No. 10/530,167  
June 30, 2010

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 14-1140.

Respectfully submitted,

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